

February 20, 1991

to touch on what Senator Moore said about the Governor offering one of these appointments. It's with the advice and consent of the Legislature, as with Congress. Once that appointment is offered it remains an executive prerogative, it does not become a legislative matter or issue. It does not become the property of the Legislature at any point. An election contest is not an executive issue, it is not Paul Korslund's issue, it becomes the Legislature's issue. And the value or the significance of it is that we are the ones who have to look at the system and it goes beyond the individual who brought it. We are to resolve the issue, and it cannot simply be withdrawn by the one who offered. And I'd like to ask Senator Kristensen some questions to show how his example is not completely correct. Senator Kristensen,...

SPEAKER BAACK: Senator Kristensen, would you respond?

SENATOR KRISTENSEN: Sure.

SENATOR CHAMBERS: ...talking about a trial, you said that "Senator" Korslund is like the one who must go forth with the evidence and so forth and meet the burden of proof, with which I agree, and that even if you're in trial then you can move to dismiss. But we're behaving somewhat as an appellate court, remember, so here's the question, if the briefs have been filed, the oral argument has been undertaken, and the Supreme Court is considering the issue can the litigant then go to the court and say, I, because it's my case, have the right to pull it from the court, and by saying, I want it, the court must let it go?

SENATOR KRISTENSEN: Senator Chambers, I don't know.

SENATOR CHAMBERS: Okay, well I do...thank you. I do. I'm not a lawyer because I haven't taken the bar and I won't belong to the Bar Association,...

SPEAKER BAACK: One minute.

SENATOR CHAMBERS: ...but I'm trained in the law and I've read rules. And the litigant cannot make the court release something by simply saying I want it to go, I want to take it back. That's why you're being misled. There are people giving examples from the law and they don't even understand the law as it stands, the one that they're using as an example. This is a legislative matter, it is our prerogative, it is our